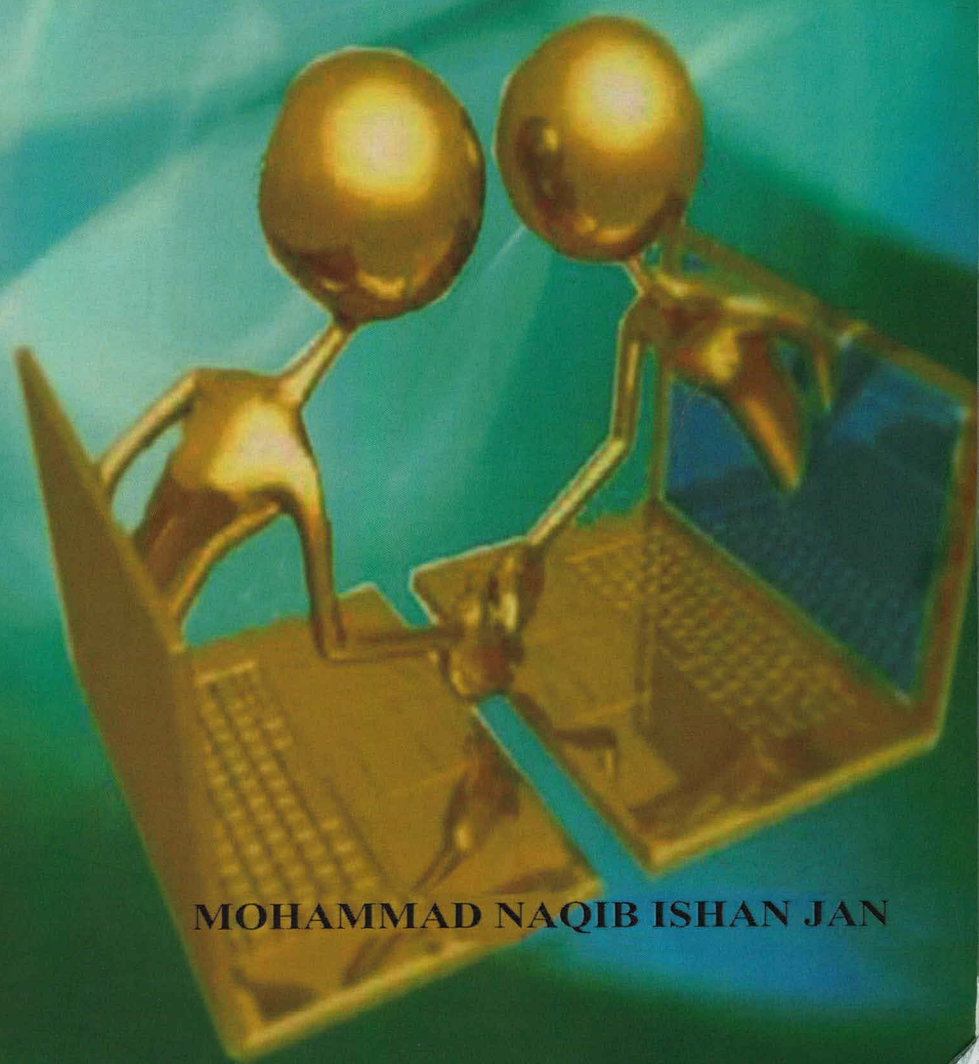


# **LAW AND COMMERCE : THE MALAYSIAN PERSPECTIVE**



**MOHAMMAD NAQIB ISHAN JAN**

# **LAW AND COMMERCE: THE MALAYSIAN PERSPECTIVE**

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## CHAPTER 17

# **A REVIEW ON THE APPLICATION OF MALAYSIAN HIRE PURCHASE ACT 1967 AND THE RECENT AMENDMENTS 2010**

*by*  
AZLINOR SUFIAN

Hire Purchase Act 1967 (herein after referred to as "HPA") is the most common consumer credit that is used by the Malaysian community, in particular for purpose of sale and purchase of motor cycle and car. The HPA came into force on 11<sup>th</sup> April 1968. The HPA is under the jurisdiction of the Ministry of Domestic Trade and Consumer Affairs and regulates the business of hire purchase financing which is normally carried out by Credit Companies licensed under the Moneylenders Act, 1951 (or being granted exemption) and Finance Companies licensed under the Banking and Financial Institutions Act, 1989 (BAFIA).<sup>1</sup> The HPA lays down the meaning of hire purchase, the formation and nature of hire purchase agreement, rights and obligations of parties in the hire purchase agreements at different stages, important

terms in the hire purchase agreement and processes and procedures for repossession. This chapter will look into the law governing the hire purchase and it will include the discussion on the recent amendments that were made to the HPA in 2010. The amendments came into force on 15<sup>th</sup> June 2011.

## MEANING OF "HIRE PURCHASE" UNDER HPA

Hire Purchase is "a letting of goods with an option to purchase and an agreement for the purchase of goods by installments (whether the agreement describes the installments as rent or hire or otherwise), but does not include any agreement;

- a. Whereby the property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods; or
- b. Under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement"<sup>2</sup>

By referring to paragraph (a) above, it excludes an outright sale (ownership transfers to buyer upon sale) and a seller/dealer cannot be the same party. Thus, it can be simplified that a contract of hire purchase consists of the following elements:

- (i) a letting of goods by the owner to the hirer with an option to purchase is given to the hirer and
- (ii) an agreement for the hirer to purchase the goods by way of installments.

In ordinary contract of sale and purchase, upon the completion of the contract, the property in the goods will be passed to the purchaser. However in a contract of hire purchase a property in the goods or ownership of the goods is not passed at the time of the agreement or upon delivery of the goods. This is because in a hire purchase agreement, there would be a seller or dealer who makes the dealing with the purchaser. When the purchaser agrees to purchase the goods, the dealer or seller will require the purchaser to approach the financier (that is normally suggested by the seller or dealer or any financier that is chosen